

REMARKS

[0007] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1-30 are currently pending, with claims 1, 11, 22, and 25 being independent,
- Claims 2 and 5 are canceled herein, and
- Claims 1, 3, 4, 6, 10, 11, 13, 22-27, and 29 are amended herein.

[0008] Claims 1, 11, 22, and 25 are amended to include subject matter from dependent claims 2, 5, and 6.

[0009] Support for the amendments to claims 3, 4, 6, 10, 13, 21-24, 26, 27, and 29 can be found in the specification at least at page 1, line 24, as well as at page 2, line 3, at page 7, line 8; and from page 15, line 25 through page 16, line 1.

Specification Objections

[0010] The Specification stands objected to as allegedly failing to comply with MPEP 608.01(b) and 37 C.F.R. 1.72(b). Application amends the specification herein, as shown above, to address the informalities noted in the Office Action.

Drawing Objections

[0011] Figures 1-6 stand objected to as allegedly failing to comply with 37 C.F.R. 1.83(a). Applicant respectfully traverses this objection.

[0012] The relevant part of 37 C.F.R. 1.83(a) states:

[C]onventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., **a labeled rectangular box**) (underlining and emphasis added).

[0013] Applicant respectfully submits that the features referred to by the Office Action are conventional features of which a “detailed illustration is not essential for a proper understanding of the invention.” *Id.* Therefore, the features of FIG. 1, including the “User Interface 104” have been illustrated in the drawing in the form of a labeled representation (e.g., a labeled rectangular box).

Claim Objections

[0014] Claims 13 and 27 stand objected to as allegedly failing to comply with various formalities. Applicant respectfully traverses this objection. Nevertheless, without conceding the propriety of the objection, and in the interest of expediting allowance, Applicant has amended claims 13 and 27 as shown above. Applicant respectfully submits that these amendments render the objections moot.

Claims 25-30 Recite Statutory Subject Matter Under § 101

[0015] Claims 25-30 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

[0010] Nevertheless, for the sole purpose of expediting prosecution and without commenting on the propriety of the Office's rejections, Applicant herein amends claims 25-30 as shown above. Applicant respectfully submits that these amendments render the § 101 rejection moot.

Claims 22-24 Comply With § 112 2nd Paragraph

[0016] Claims 22-24 stand rejected under 35 U.S.C. § 112, ¶ 2, as allegedly being indefinite. Applicant respectfully traverses this rejection.

[0017] Nevertheless, for the sole purpose of expediting prosecution and without acquiescing in the propriety of the Office's rejections, Applicant herein amends claims 22-24 as shown above to recite at least "created using vector-based graphics animation techniques." Applicant respectfully submits that these amendments render the § 112, ¶ 2 rejections moot.

Cited Documents

[0018] The following documents have been applied to reject one or more claims of the Application:

- **Harrington #1:** Harrington, U.S. Patent Application Publication No. 2002/0156909,
- **Harrington #2:** Harrington, U.S. Patent Application Publication No. 2003/0145338,
- **Craft:** Craft, U.S. Patent No. 6,272,566,
- **Flash MX:** Macromedia, "Flash MX Tutorials", 2/2002, pp 1-90,
- **Holtz:** Holtz, et al., U.S. Patent No. 6,760,916, and
- **Wiser:** Wiser, et al., U.S. Patent No. 6,385,596.

Applicant's Background Fails to Anticipate Claims 1 and 7

[0019] Claims 1 and 7 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Applicant's Background (hereinafter, "Background"). Applicant respectfully traverses the rejection. In particular, the Office Action characterizes

Background as “Applicant’s Admitted Prior Art.” (Office Action, p. 9). Applicant respectfully disagrees with this characterization of Background. Nevertheless, for the sole purpose of expediting prosecution and without commenting on the propriety of the Office's rejections, Applicant herein amends independent claim 1 to include features along the lines of, but different than, those previously recited in dependent claims 2, 5, and 6. Dependent claims 2, 5, and 6 were previously rejected as allegedly being obvious over Background in view of Harrington #1 and Craft. Thus, to the extent that it may be relevant to claim 1 as amended, Harrington #1 and Craft are discussed below.

Independent Claim 1

[0020] Applicant submits that the Office has not shown that Background anticipates this claim. Background does not disclose at least all of the following features of this claim, as amended (added text underlined and emphasis added):

- A method comprising:
 - receiving a playlist at a media player referencing a first media segment and a second media segment, the second media segment operable to play automatically without a prompt after being loaded into an interactive media presentation control, the media player being configured to only present one media segment through a user interface at a time;
 - presenting the first media segment via the user interface;
 - prerolling the second media segment, wherein prerolling the second media segment comprises:
 - loading at least a predetermined minimum portion of the second media segment into a buffer for the interactive media presentation control before the presenting of the first media segment is complete; and
 - **immediately postponing presentation of the second media segment, the immediately postponing facilitates prevention of overlapping playback with the first media segment;**
 - receiving an event from the interactive media presentation control indicating that the presenting of the first media segment is finished;

- receiving a loading complete event from the interactive media presentation control indicating that the second media segment has been completely loaded; and
- immediately presenting the second media segment via the user interface after receiving the event and the loading complete event, the immediately presenting facilitating a seamless transition from the first media segment to the second media segment.

[0021] The cited document fails to disclose, teach, or suggest all of these features.

[0022] For example, Background fails to disclose or suggest, among other things, “immediately postponing presentation of the second media segment, the immediately postponing for preventing overlapping playback with the first media segment.” The Office Action states on page 11, “[a]dmission fails to expressly disclose: postponing presenting of the second media segment.” Accordingly, Applicant submits that Background does not anticipate this claim, and respectfully requests that the rejection of this claim be withdrawn.

[0023] Furthermore, Harrington #1 fails to remedy the deficiencies in Background noted above with respect to independent claim 1.

[0024] Harrington #1 is directed to a system that attempts to control “a Flash presentation on a client device through the use of a command received from a server.” (Harrington #1, Abstract). In rejecting the features previously recited in dependent claim 2, the Office Action pointed to paragraph 55 of Harrington #1, as allegedly teaching these features. However, the cited portion of Harrington #1 merely states that “the system could prefetch Flash content to use for later playback with or without a network connection.” There is no disclosure or suggestion in Harrington #1 of “**immediately postponing** presentation of the second media segment, the immediately postponing for

preventing overlapping playback with the first media segment” (emphasis added), as presently recited in amended independent claim 1.

[0025] For at least the foregoing reasons, Background and Harrington #1, whether taken alone or in combination (assuming they can even be combined in the manner proposed in the Office Action), fail to teach or suggest the features of claim 1. Accordingly, Applicant submits that Background does not anticipate this claim, and respectfully requests that the rejection of this claim be withdrawn.

[0026] Additionally, without conceding that any of the purported combinations are proper, particularly, Applicant disputes that the purported modification of Background with Harrington #1 would have made the rejected claims obvious to one of ordinary skill in the art (“OOSA”) at the time of the invention. Applicant requests the Examiner’s assistance to help to understand how to combine the cited references without the benefit of hindsight reasoning to acquire motivations to obtain the claimed results.

[0027] In particular, OOSA *having common sense* would not have reasonably looked to Harrington #1 for such teaching, since Background purportedly had already addressed the problem.

[0028] The Office Action at page 12 states “it would have obvious to one having ordinary skill in the art at the time the invention was made to modify Admission, to include: postponing presenting of the second media segment, **for the purpose of controlling a Flash movie.**” (Office Action, p. 12, emphasis added).

[0029] Applicant disagrees that this combination would have been obvious to OOSA at the time of the invention at least because Background discloses a “typical media

player [that] employs a 'playlist' . . . **to facilitate sequencing** through the media segment(s) referenced by the playlist.” (Background, p. 1, lines 8-18, emphasis added).

[0030] The above statement draws on the reasoning of the BPAI presented in *Ex parte Rinkevich* (May 29, 2007).

[0031] In its reasoning, the BPAI stated: “[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of argument reliant upon *ex post* reasoning,” (quoting KSR Int’l Corp. v. Teleflex Inc., 127 S. Ct. 1727, 82 USPQ2d at 1397. See also Graham v. John Deere Co., 383 U.S. at 36, 148 USPQ at 474). In that case, as in the matter at issue here, the Applicant raised the issue of improper hindsight reasoning. Therein the BPAI was persuaded that the problem or deficiency that the Examiner raised as motivation to seek out a secondary reference, “impermissibly used the instant claims as a guide or roadmap in formulating the rejection.” The BPAI further quoted the Supreme Court in *KSR* stating that “[r]igid preventative rules that deny factfinders recourse to common sense, however, are neither necessary under our case law nor consistent with it,” KSR Int’l Co. v. Teleflex Inc., 127 S. Ct. 1727, 82 USPQ2d at 1397. Applying common sense, the BPAI concluded that “a person of ordinary skill in the art *having common sense* at the time of the invention would not have reasonably looked to Wu to solve a problem already solved by Savill,” (emphasis provided). Ultimately the BPAI found that the Examiner had impermissibly used the claims as a guide to formulate the rejection.

[0032] The Examiner suggests that the reason to combine the teaching of Background and Harrington #1 is that “it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Admission, to

include: postponing presenting of the second media segment, for the purpose of controlling a Flash movie.” However, because Background discloses a media player with a playlist, purportedly Background would already be able to control a Flash movie. Thus, OOSA *having common sense* would not have reasonably looked to Harrington #1 for such teaching, since Background purportedly had already addressed the problem.

[0033] For at least the foregoing reason, Applicant submits that none of these references expresses a reason to combine the teachings of these references. Accordingly, OOSA would have no motivation to combine the teachings of the cited references.

[0034] Consequently, Background does not disclose all of the elements and features of this claim, and Applicant submits that there is no motivation to combine Background and Harrington #1. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Dependent Claim 7

[0035] Claim 7 ultimately depends from independent claim 1. As discussed above, claim 1 is not anticipated by the cited document, and is therefore allowable over the cited documents. Therefore, dependent claim 7 is also allowable over the cited document of record for at least its dependency on an allowable base claim. Additionally, this claim may also be allowable for the additional features that it recites.

Claims 2, 3, 5, and 25-27 Are Non-Obvious Over Background in view of Harrington #1

[0036] Claims 2, 3, 5, and 25-27 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Harrington. Applicant respectfully traverses the rejection. Nevertheless, for the sole purpose of expediting prosecution and without commenting on the propriety of the Office's rejections, Applicant herein amends independent claim 25 to include features along the lines of, but different than, those previously recited in dependent claim 2. Additionally, and without commenting on the propriety of the Office's rejections, Applicant herein cancels claims 2 and 5, rendering the rejection of those claims moot.

Independent Claim 25

[0037] Applicant submits that the Office has not made a prima facie showing that independent claim 25 is obvious in view of the combination of Background and Harrington #1. Applicant submits that the combination of Background and Harrington #1 does not teach or suggest at least the following features of this claim, as amended (added text underlined and emphasis added):

- A system comprising:
 - memory and a processor;
 - a media control module, stored in the memory and executable on the processor, operable to begin playing a media segment automatically after buffering the media segment; and
 - a host application module, stored in the memory and executable on the processor, operable to receive a reference to the media segment, initialize the media control module with the media segment, and **cause the media control module to immediately postpone playing of the media segment** after the media segment is buffered, the causing of the media control module to immediately postpone playing for preventing overlapping playback with an already playing media segment.

[0038] For at least reasons similar to those discussed above with regards to independent claim 1, this claim stands allowable over the combination of Background and Harrington #1. For example, the combination of Background and Harrington #1 fails to teach or suggest, among other things, “caus[ing] the media control module to immediately postpone playing of the media segment after the media segment is buffered, the causing of the media control module to immediately postpone playing for preventing overlapping playback with an already playing media segment.”

[0039] Additionally, Applicant submits that, as noted above with reference to independent claim 1, no objective evidence exists to combine the teachings of these references because Background purportedly teaches controlling Flash media. Accordingly, OOSA would have no motivation to combine the teachings of the cited references.

[0040] Consequently, the combination of Background and Harrington #1 does not teach or suggest all of the elements and features of this claim, and there is no motivation to combine Background and Harrington #1. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Dependent Claims 3, 26, and 27

[0041] Claims 3, 26, and 27 ultimately depend from one of independent claims 1 or 25. As discussed above, claims 1 and 25 are allowable over the cited documents. Therefore, claims 3, 26, and 27 are also allowable over the cited documents of record for at least their dependency from an allowable base claim. These claims may also be allowable for the additional features that each recites.

**Claim 6 Is Non-Obvious
Over Background in view of Harrington #1 and further in view of Craft**

[0042] Claim 6 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Harrington #1 and further in view of Craft. Applicant respectfully traverses the rejection.

Dependent Claim 6

[0043] Claim 6 ultimately depends from independent claim 1. As discussed above, claim 1 is allowable over the cited documents. Therefore, dependent claim 6 is also allowable over the cited documents of record for at least its dependency on an allowable base claim. Additionally, this claim may also be allowable for the additional features that it recites.

**Claims 10, 28, and 29 Are Non-Obvious
Over Background in view of Harrington #1 and further in view of Flash MX**

[0044] Claims 10, 28, and 29 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Harrington #1 and further in view of Flash MX. Applicant respectfully traverses the rejection.

Dependent Claims 10, 28, and 29

[0045] Claims 10, 28, and 29 ultimately depend from one of independent claims 1 or 25. As discussed above, claims 1 and 25 are allowable over the cited documents. Therefore, claims 10, 28, and 29 are also allowable over the cited documents of record for at least their dependency from an allowable base claim. These claims may also be allowable for the additional features that each recites.

Claims 8, 9, 11, 12, 14-19, 22, and 24
Are Non-Obvious Over Background in view of Flash MX

[0046] Claims 8, 9, 11, 12, 14-19, 22, and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Flash MX. Applicant respectfully traverses the rejection. Nevertheless, for the sole purpose of expediting prosecution and without commenting on the propriety of the Office's rejections, Applicant herein amends independent claim 11.

Independent Claim 11

[0047] Applicant submits that the Office has not made a prima facie showing that independent claim 11 is obvious in view of the combination of Background and Flash MX. Applicant submits that the combination of Background and Flash MX does not teach or suggest at least the following features of this claim, as amended (added text underlined and emphasis added):

- A method comprising:
 - parsing a playlist of media segments at a host application comprising a media player having at least one reference to an interactive media segment operable to play continuously and a media presentation control operable to play the interactive media segment, the media player configured to only present one media segment at a time;
 - prerolling the interactive media segment in the media presentation control;
 - **immediately stopping playback of the interactive media segment if it is not a first media segment in the playlist, the immediately stopping playback for preventing overlapping playback with a preceding media segment;**
 - playing the interactive media segment in an interface of the media player after receiving an event indicating that the presenting of the preceding media segment is complete and the prerolling is complete; and
 - receiving a media segment event from the media presentation control indicating that the playing of the interactive media segment has finished.

[0048] For at least reasons similar to those discussed above with regards to independent claims 1 and 25, this claim stands allowable over the combination of Background and Flash MX. For example, Background fails to disclose or suggest, among other things, “immediately stopping playback of the interactive media segment if it is not a first media segment in the playlist.”

[0049] Furthermore, Flash MX fails to remedy the deficiencies in Background noted above with respect to independent claim 1.

[0050] Flash MX is a “tutorial [for guiding users] through the process of creating a compelling Web experience with Macromedia Flash MX.” (Flash MX, Introduction). However, there is no teaching or suggestion in Flash MX of “**immediately stopping** playback of the interactive media segment if it is not a first media segment in the playlist” (emphasis added), as presently recited in amended independent claim 11.

[0051] For at least the foregoing reasons, Background and Flash MX, whether taken alone or in combination (assuming they can even be combined in the manner proposed in the Office Action), fail to teach or suggest the features of claim 11. Accordingly, Applicant submits that claim 11 is not obvious over the combination of Background and Flash MX, and respectfully requests that the rejection of this claim be withdrawn.

[0052] Additionally, Applicant submits that, as noted above with reference to independent claims 1 and 25, no objective evidence exists to combine the teachings of each other because Background purportedly teaches controlling Flash media. Accordingly, OOSA would have no motivation to combine the teachings of Background and Flash MX.

[0053] Consequently, the combination of Background and Flash MX does not teach or suggest all of the elements and features of this claim, and there is no motivation to combine Background and Flash MX. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Independent Claim 22

[0054] Applicant submits that the Office has not made a prima facie showing that independent claim 22 is obvious in view of the combination of Background and Flash MX. Applicant submits that the combination of Background and Flash MX does not teach or suggest at least the following features of this claim, as amended (added text underlined and emphasis added):

- One or more computer-readable storage media, storing processor-executable instructions that, when executed on a processor, perform acts comprising:
 - instantiating an events wrapper associated with a media segment created using vector-based graphics animation techniques;
 - initializing a control operable to playback the media segment created using vector-based graphics animation techniques;
 - hosting the control in a portion of a user interface;
 - buffering the media segment created using vector-based graphics animation techniques prior to completion of playback of a previous media segment;
 - **immediately postponing presentation of the media segment created using vector-based graphics animation techniques, the immediately postponing for preventing overlapping playback with the previous media segment**; and
 - receiving notification from the control when the media segment created using vector-based graphics animation techniques has completed playback.

[0055] For at least reasons similar to those discussed above with regards to independent claim 11, this claim stands allowable over the combination of Background and Flash MX. For example, the combination of Background and Flash MX fails to

teach or suggest, among other things, “immediately postponing presentation of the media segment created using vector-based graphics animation techniques . . . for preventing overlapping playback with the previous media segment.”

[0056] Additionally, Applicant submits that, as noted above with reference to independent claims 1, 11, and 25, no objective evidence exists to combine the teachings of these references and Background purportedly teaching controlling Flash media. Accordingly, OOSA would have no motivation to combine the teachings of Background and Flash MX.

[0057] Consequently, the combination of Background and Flash MX does not teach or suggest all of the elements and features of this claim, and there is no motivation to combine Background and Flash MX. Accordingly, Applicant respectfully requests that the rejection of this claim be withdrawn.

Dependent Claims 8, 9, 12, 14-19, and 24

[0058] Claims 8, 9, 12, 14-19, and 24 ultimately depend from one of independent claims 1, 11, or 22. As discussed above, claims 1, 11, and 22 are allowable over the cited documents. Therefore, claims 8, 9, 12, 14-19, and 24 are also allowable over the cited documents of record for at least their dependency from an allowable base claim. These claims may also be allowable for the additional features that each recites.

**Claim 13 Is Non-Obvious
Over Background in view of Flash MX and further in view of Holtz**

[0059] Claim 13 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Flash MX and further in view of Holtz. Applicant respectfully traverses the rejection.

Dependent Claim 13

[0060] Claim 13 ultimately depends from independent claim 11. As discussed above, claim 11 is allowable over the cited documents. Therefore, dependent claim 13 is also allowable over the cited documents of record for at least its dependency on an allowable base claim. Additionally, this claim may also be allowable for the additional features that it recites.

**Claim 20 Is Non-Obvious
Over Background in view of Flash and further in view of Craft**

[0061] Claim 20 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Flash and further in view of Craft. Applicant respectfully traverses the rejection.

Dependent Claim 20

[0062] Claim 20 ultimately depends from independent claim 11. As discussed above, claim 11 is allowable over the cited documents. Therefore, dependent claim 20 is also allowable over the cited documents of record for at least its dependency on an allowable base claim. Additionally, this claim may also be allowable for the additional features that it recites.

Claim 21 Is Non-Obvious Over Background in view of Flash MX and further in view of Wiser

[0063] Claim 21 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Flash MX and further in view of Wiser. Applicant respectfully traverses the rejection.

Dependent Claim 21

[0064] Claim 21 ultimately depends from independent claim 11. As discussed above, claim 11 is allowable over the cited documents. Therefore, dependent claim 21 is also allowable over the cited documents of record for at least its dependency on an allowable base claim. Additionally, this claim may also be allowable for the additional features that it recites.

Claim 23 Is Non-Obvious
Over Background in view of Flash MX and further in view of Harrington #1

[0065] Claim 23 stands rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Background in view of Flash MX and further in view of Harrington #1. Applicant respectfully traverses the rejection.

Dependent Claim 23

[0066] Claim 23 ultimately depends from independent claim 22. As discussed above, claim 22 is allowable over the cited documents. Therefore, dependent claim 23 is also allowable over the cited documents of record for at least its dependency on an allowable base claim. Additionally, this claim may also be allowable for the additional features that it recites.

Conclusion

[0067] For at least the foregoing reasons, all pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application.

[0068] If any issues remain that would prevent allowance of this application,
Applicant requests that the Examiner contact the undersigned representative before issuing a subsequent Action.

Respectfully Submitted,

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